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HELENA, MONTANA

December 10, 1956

OLIVER SULLIVAN
COMMISSIONER

ELMER A. RUDE
DEPUTY

Hon. J. Hugo Aronson
Governor of Montana
Capitol Building
Helena, Montana

Dear Governor Aronson:-

I herewith submit a brief report on the activities of the Department of Labor and Industry for the year ending December 1956.

The main duties of this Department are confined to the enforcement of the eight hour law, enforcement of Child Labor Laws and assistance in the collection of unpaid wages.

In the enforcement of the eight hour law, very few complaints were turned into this Department, showing that the employers in the State of Montana are well versed on this law. Of those that were turned in, they were of a minor nature and required no filing of any action.

Most of the employers in the State understand the Child Labor Laws. Only a few minor infractions were observed. During the year, the Department issued 1,786 Certificates of Age for Minors. This was 65 below a year ago, which shows that the work available for minors was about the same as last year.

The majority of work in this Department consists of giving assistance to employees in the collection of unpaid wages. The Department was in receipt of 156 wage claims during the year, totaling \$25,162.38. Of this number, the Department was able to collect 75 of them, with wages in the amount of \$9,605.34. There were 13 complaints sent in about the non-payment of wages, with no amount stated, and when statements of claim were sent to them, they were never returned. There were 56 claims which were either not legitimate or required other action on the part of the employee, this Department having no jurisdiction in these cases. At the present time, there are 12 claims pending.

During the year, I attended one out-of-state conference. In May, I went to Washington, D.C. to attend the President's Conference on Occupational Safety.

The Department has submitted a budget request for the fiscal years 1957-1958 and 1958-1959 to the State Controller in the amount of \$21,135.00 per fiscal year. This is an increase of \$4,860.00 over our last appropriation, which is being asked in anticipation of new legislation being enacted which will require additional funds.

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As a Legislative Program, The Commissioner of Labor recommends:

- (1) The repeal of all out-of-date Labor Laws.
- (2) The simplification and consolidation of other Labor Laws.
- (3) The enactment of a minimum wage law for the larger cities.
- (4) A drastic overhaul of the whole Workmen's Compensation System.

The present Workmen's Compensation Act is not adequately protecting the younger worker who has a severe injury of a large family to support. Also, the present act needs to be re-designed so as to reduce present abuse of the system by unethical Doctor-Lawyer combinations.

Compensation rates need to be substantially increased for injured workers who have large families to support. Our experience indicates that the present rate for a single person is probably too high. Far too many single persons must be persuaded to return to work. Injured workers with large families to support, frequently come to the Board asking for partial lump sum payments to pay bills, and several times, they have returned to work too soon thereby re-injuring themselves. These facts suggest a substantial increase in compensation rates for injured workers who have large families to support.

The dollar limits on medical payments and on prosthetic appliances should be repealed. Only a few cases every year exceed the present dollar limits. Plan III, the State Insurance Plan, has only about ten cases per year. The increase in cost will be small. However, these dollar limits impose severe economic hardship upon the severely injured workers. One case should be cited: About two years ago, a worker was injured by a steel plate which was driven thru his throat, tore out most of his jaw and nose and blinded both eyes. This injured worker has used almost all his compensation benefits (about \$14,000) for extensive surgery. The present act did not adequately compensate this injured worker. We must remember that coverage under the Workmen's Compensation Act denies him the right to sue the employer, which in this case would probably have resulted in a judgement close to \$200,000. The severely injured workers should not be required to accept a mere pittance in exchange for their rights to sue.

The act should be extended to cover silicotics and occupational diseases. Most other States require the industry to bear the cost. The industries in Montana have no moral right to shift this cost to the taxpayers and thereby force workers with silicosis and occupational diseases to accept the social stigma of living on welfare.

The act should be revised working toward an integration of the Workmen's Compensation System with other social insurance systems, such as Federal Social Security. All Social Insurance Systems should be consolidated into a comprehensive social insurance system, and thereby eliminate duplication of benefits. Duplication of benefits tends to keep the benefit scales too low. Only the few persons who can pile benefits from the different systems on top of each other profit by a non-integrated social insurance system.

The act needs to be redesigned so as to reduce abuse of the system by unethical Doctor-Lawyer combinations. The back cases and exaggerated claims are running away with the funds. The Commissioner of Labor estimates that at least \$300,000 per year is now being paid out to exaggerated claimants and these unethical Doctor-Lawyer combinations. This is how they operate: The insurance company Lawyer refuses to make a reasonable settlement with the injured worker. The injured worker goes to Lawyer X. Doctor X then declares the injured worker 100% totally disabled. Judge X then awards the injured worker 500 weeks of compensation (about \$15,000), usually in a lump sum, no matter how minor the real injury. It is possible, that the fat fee of Lawyer X is then divided among some of the players. The Commissioner of Labor feels that fifty per cent (50%) fees are too high; that the purpose of the Workmen's Compensation System is to adequately compensate injured workers, not to compensate Lawyers.

Several workers with minor injuries have appeared at the Industrial Accident Board's Office and said that Lawyers tried to induce them to fake a back injury so that they might get large settlements. The honesty of these injured workers is the only thing that saved the Board from being stuck (indirectly the employer) for a \$5,000 to \$15,000 payment for each case. These unethical Doctor-Lawyer combinations are bleeding the fund which should go to the severe injury cases in the form of increased benefits, instead of to these exaggerated claimants and their enterprising Doctor-Lawyer combinations. The Industrial Accident Board is unable to get control of this situation - when these unethical Doctor-Lawyer combinations appeal their cases to the courts, the Board always loses. The Industrial Accident Board is unable to stop this racketeering without the co-operation of the courts. In the professions, there can never be any satisfactory substitute for intellectual honesty. However, the present abuses by unethical Doctor-Lawyer combinations can be reduced by redesigning the Act.

Therefore, the Commissioner of Labor recommends:

- (1) Kill Plan II, the private insurance plan.
- (2) Set by statute a schedule of maximum Attorney's fees in compensation cases (many other states now do this).
- (3) Prohibit lump sum settlements in all cases of total disability. Possible limited lump sum settlements, under the loss of income section in the act should be permitted. If a limited lump sum system is permitted, let the decision rest in the "sole" discretion of the Board.
- (4) Abolish the present schedule loss table and replace it by improving the loss of income section for partial disability.
- (5) Prohibit the District Courts' powers to stay that part of a Board's award or final order which orders compensation to be paid at the regular weekly rates.
- (6) Amend the act so that Courts shall review questions of law only and the findings of facts by the Board shall be conclusive if supported by any substantial evidence (many other states have this restriction on court reviews).
- (7) Consider the repeal of the present non-partisan election of Judges and a return to election of Judges by political party labels.
- (8) Consider the enactment of the Missouri Plan or the Pennsylvania Plan, for the selection of Supreme Court Judges.

Respectfully,

OS/ear

Oliver Sullivan
Commissioner of Labor and Industry

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